

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	
	)	
Village of Wittenberg	)	<b>FINDING OF VIOLATION</b>
Wittenberg, Wisconsin	)	
	)	<b>EPA-5-99-WI-30</b>
	)	
Proceedings Pursuant to	)	
the Clean Air Act,	)	
42 U.S.C. §§ 7401 <u>et seq.</u>	)	
_____	)	

**Finding of Violation**

The United States Environmental Protection Agency (U.S. EPA) notifies the State of Wisconsin and the Village of Wittenberg, Wisconsin that U.S. EPA finds that the Village of Wittenberg, Wisconsin, is in violation of the Clean Air Act (Act), 42 U.S.C. § 7412, and regulations setting forth the National Emission Standard for Hazardous Air Pollutants (NESHAPs) for Asbestos, at 40 C.F.R. Part 61, Subpart M, as follows:

**Regulatory Authority**

- (1) The Asbestos NESHAP, at 40 C.F.R. Part 61, Subpart M, applies to the facility that was located at 703 East Grand Avenue, Wittenberg, Wisconsin, and was demolished by the Wittenberg Fire Department.
- (2) The NESHAP, at 40 C.F.R. § 61.145(a), requires the owner or operator of a demolition or renovation activity, prior to the commencement of the demolition or renovation activity, to thoroughly inspect the affected facility, or part of the facility where the demolition or renovation operation will occur, for the presence of asbestos, including Category I and Category II nonfriable ACM.
- (3) The NESHAP, at 40 C.F.R. § 61.145(b), requires that each owner or operator of a demolition or renovation activity provide the Administrator with written notice of intention to demolish at least 10 working days before asbestos stripping or removal work or any other activity begins.

- (4) The NESHAP, at 40 C.F.R. § 61.145(c)(6), requires that each owner or operator of a demolition or renovation activity adequately wet the RACM material that has been removed and ensure that it remains wet until collected and contained or treated in preparation for disposal.
- (5) The NESHAP, at 40 C.F.R. § 61.145(c)(10), requires if a facility is demolished by intentional burning, all RACM including Category I and Category II nonfriable ACM must be removed in accordance with the NESHAP before burning.

### **Factual Background**

- (1) On or before November 17, 1997, Mr. Gary Hanke owned the house that was located at 703 East Grand Avenue, Wittenberg, Wisconsin ("the Grand Avenue facility" or "the facility"). Mr. Hanke turned this house over to the Wittenberg Fire Department to be burned during the course of fire fighting/fire rescue training.
- (2) Before, on and after November 17, 1997, the Grand Avenue facility had slate siding that contained asbestos.
- (3) On or about November 17, 1997, the Wittenberg Fire Department (WFD) set a series of small fires at the Grand Avenue facility and conducted fire fighting and fire rescue training. Subsequently, the WFD allowed the fires to burn the facility completely, resulting in the demolition of the building.
- (4) The Village of Wittenberg failed to thoroughly inspect the affected facility for the presence of asbestos, prior to the demolition activity that it conducted at the facility on November 17, 1997.
- (5) The Village of Wittenberg failed to provide the Administrator with written notice of intent to demolish at least ten (10) working days before it began the asbestos demolition activity on November 17, 1997.
- (6) The Village of Wittenberg failed to adequately wet all RACM from the demolition activity and failed to ensure that it remained wet until collected and contained or treated in preparation for disposal.
- (7) The Village of Wittenberg failed to remove all RACM in accordance with the NESHAPs, prior to burning the facility on November 17, 1997.

**Violations**

- (1) The Village of Wittenberg violated 40 C.F.R. § 61.145(a) by failing to thoroughly inspect the affected facility for the presence of asbestos, prior to the demolition activity that it conducted at the facility on November 17, 1997.
- (2) The Village of Wittenberg violated 40 C.F.R. § 61.145(b) by failing to provide the Administrator with written notice of intent to demolish at least ten (10) working days before it began the asbestos demolition activity on November 17, 1997.
- (3) The Village of Wittenberg violated 40 C.F.R. § 61.145(c)(6) by failing to adequately wet all RACM from the demolition activity and failed to ensure that it remained wet until collected and contained or treated in preparation for disposal.
- (4) The Village of Wittenberg violated 40 C.F.R. § 61.145(c)(10) by failing to remove all RACM in accordance with the NESHAPs, prior to burning the facility on November 17, 1997.

8/11/99

Date

Margaret M. Guerriero, Acting Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Shanee Rucker, certify that I sent a Finding of Violation  
by Certified Mail, Return Receipt Requested, to:

Raymond Stark, President  
Village of Wittenberg  
208 West Vinal Street  
Wittenberg, Wisconsin 54499


I also certify that I sent copies of the Finding of  
Violation by first class mail to:

Lloyd Eagan, Director  
Bureau of Air Management  
Wisconsin Department of Natural Resources  
101 South Webster  
P.O.Box 7921  
Madison, Wisconsin 53707

David Hildreth, Regional Leader  
Northeast Region  
Wisconsin Department of Natural Resources  
1125 N. Military Avenue  
P.O. Box 10448  
Green Bay, Wisconsin 54307

Paul Yeager, Fire Chief  
Village of Wittenberg  
208 West Vinal Street  
Wittenberg, Wisconsin 54499

on the 13 day of August, 1999.

  
Shanee Rucker, Secretary  
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: P140777081